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WG CRANFORD SH, LLC d/b/a ATRIA CRANFORD,

ATRIA MANAGEMENT COMPANY and VENTAS

AOS OPERATING HOLDINGS, INC.

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

ESTATE OF CHARLOTTE M. TRAUTMANN,
THROUGH JENNIFER CIUBA A.K.A
JENNIFER K. TRAUTMANN EXECUTOR,

Plaintiff,

-against-

WG CRANFORD SH, LLC d/b/a ATRIA
CRANFORD, ATRIA MANAGEMENT
COMPANY, VENTAS AOC OPERATING
HOLDINGS, INC., GHI COMPANIES (1-10),
JKL PARTNERSHIPS (1-10), JANE DOE
PHYSICIANS (1-10), JANE DOE NURSES (1-
10), JANE DOE THERAPISTS (1-10), JANE
DOE TECHNICIANS (1-10), CERTIFIED
NURSING AIDES, AND PARAMEDICAL
EMPLOYEES (1-10),

Defendants.

Civil Action No: _____

NOTICE OF REMOVAL

Defendants WG CRANFORD SH, LLC d/b/a ATRIA CRANFORD, ATRIA
MANAGEMENT COMPANY and VENTAS AOS OPERATING HOLDINGS, INC.
(collectively referred to as “Atria”), hereby remove to this Court the state action described
below. Removal is warranted under 28 U.S.C. § 1441 because this is an action over which this
Court has original jurisdiction under 28 U.S.C. § 1332.

I. BACKGROUND

1. Plaintiff Jennifer Ciuba a/k/a Jennifer K. Trautmann, as Executor of the Estate of Charlotte M. Trautmann, brought this personal injury and wrongful death action against Defendants by filing a Summons and Complaint in the Superior Court of New Jersey, Union County, Law Division, on or about July 22, 2020. *See* Declaration of Kelly Jones Howell in Support of Notice of Removal under 28 U.S.C. § 1441(b) (Diversity) of Defendants Atria (hereinafter “Howell Decl.”), **Exhibit A**. This case was assigned Docket No: UNN-L-2372-20. *See id.* at ¶ 1. Please find the Summons and Complaint annexed hereto as **Exhibit B**.

2. This case arises out of the residency of decedent Charlotte Trautmann at Atria Cranford, located at 10 Jackson Drive, Cranford, New Jersey. *Id.* at ¶ 12. Plaintiff, the Executor of the Estate of Charlotte Trautmann, alleges that Defendants failed to provide skilled nursing care to Charlotte Trautmann at Atria Cranford, resulting in injury, even though Atria Cranford is licensed as an Assisted Living Community. *Id.* at ¶¶ 17, 20. Plaintiff also alleges that as a result, decedent died on December 12, 2018. *Id.* at ¶ 36. Plaintiff alleges causes of action for negligence, medical malpractice, wrongful death and punitive damages. *Id.* at ¶¶ 17, 34, 37 and 40.

3. As more fully set forth below, this case is properly removed to this Court pursuant to 28 U.S.C. § 1441 because this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1332 and because Atria has satisfied the procedural requirements for removal.

II. REMOVAL IS PROPER BECAUSE THIS COURT HAS SUBJECT MATTER JURISDICTION UNDER 28 U.S.C. §§ 1332 AND 1441

4. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1332 because this is a civil action in which the amount in controversy exceeds the sum of \$75,000 and is between citizens of different states.

A. DIVERSITY OF CITIZENSHIP

5. Plaintiff was, at the time this action was commenced, a resident and citizen of the State of New Jersey. *See Howell Decl.*, **Exhibit B**; ¶1.

6. Decedent Charlotte Trautmann was, at all relevant times, a resident of the State of New Jersey. *Id.* at ¶ 12.

7. Defendant WG CRANFORD SH, LLC d/b/a ATRIA CRANFORD is and was at the time Plaintiff commenced this action, a corporation organized under the laws of the State of Delaware with its principal place of business in Louisville, Kentucky. *See Jones Decl.*, ¶ 5. Therefore, WG CRANFORD SH, LLC d/b/a ATRIA CRANFORD is a citizen of Delaware and Kentucky for purposes of determining diversity. 28 U.S.C. § 1332(c)(1).

8. ATRIA MANAGEMENT COMPANY is and was at the time Plaintiff commenced this action, a corporation organized under the laws of the State of Delaware with its principal place of business in Louisville, Kentucky. *See Jones Decl.*, ¶ 6. Therefore, ATRIA MANAGEMENT COMPANY is a citizen of Delaware and Kentucky for purposes of determining diversity. 28 U.S.C. § 1332(c)(1).

9. VENTAS AOS OPERATING HOLDINGS, INC. is and was at the time Plaintiff commenced this action, a corporation organized under the laws of the State of Delaware with its principal place of business in Louisville, Kentucky. *See Jones Decl.*, ¶ 7. Therefore, VENTAS AOS OPERATING HOLDINGS, INC. is a citizen of Delaware and Kentucky for purposes of determining diversity. 28 U.S.C. § 1332(c)(1).

10. The presence of fictitiously named defendants in the Complaint does not defeat diversity and would not form a basis for remand because *inter alia*, plaintiff does not plead any identifying information or substantive conduct, other than boiler plate claims. *See Fronczkiewicz v. Magellan Health Servs., Inc.*, No. CV-11-07542JEIAMD, 2012 WL 12903862, at *1 (D.N.J.

Jan. 19, 2012) (remand denied because plaintiff “fail[ed] to articulate any substantive conduct or plead any identifying information whatsoever” of fictitious entities and identifying the entities as employees, agents and/or representatives of Defendants did not defeat diversity).

B. AMOUNT IN CONTROVERSY

11. It is apparent from the face of the Complaint that plaintiff seeks an amount in controversy in excess of \$75,000 exclusive of interest and costs.

12. Plaintiff alleges that decedent suffered abuse and neglect and sustained pressure wounds and other injuries which ultimately caused her death and seeks pecuniary damages, special damages, compensation for pain and suffering as well as costs and punitive damages. *See* Howell Decl., **Exhibit A** at ¶ 8; Summons and Complaint, **Exhibit B**; ¶¶ 20, 34, 37 and 40.

13. Evident from the face of the Complaint, the amount in controversy exceeds the jurisdictional minimum set forth in 28 U.S.C. 1332(a). *See Angus v. Shiley Inc.*, 989 F.2d 142, 146 (3d Cir. 1993) (claim for wrongful death satisfied amount in controversy because “there [was] no doubt that a reasonable jury likely could have valued [plaintiff’s] losses at over [the amount in controversy]”). Further, remand would be inappropriate because “it does not appear to a *legal certainty* that [Plaintiff] cannot recover the jurisdictional amount.” *Frederico v. Home Depot*, 507 F.3d 188, 199 (3d Cir. 2007) (emphasis in original) (when assessing whether the amount in controversy is satisfied the Court should also consider punitive damages and attorneys’ fees where available).

III. PROCEDURAL REQUIREMENTS FOR REMOVAL HAVE BEEN SATISFIED

14. Defendants received a copy of Plaintiff’s Summons and Complaint on August 31, 2020. *See* Howell Decl., at ¶ 8.

15. Removal is timely pursuant to 28 U.S.C. § 1446(b)(1) because Defendants have filed this Notice of Removal with this Court within thirty (30) days after becoming aware of

Plaintiff's Summons and Complaint.

16. The Superior Court, Law Division, Union County, New Jersey is located within the District of New Jersey, and therefore venue is proper in this court pursuant to 28 U.S.C. § 110 because it is “the district and division embracing the place where such action is pending.” 28 U.S.C. § 1441(a)

17. A copy of this Notice of Removal will promptly be filed in the Superior Court of the State of New Jersey, Union County, Law Division, and delivered to Plaintiff's counsel of record. *See* Notice of Filing of Notice of Removal to State Court, **Exhibit C**.

18. By removing this action to this Court, Defendants do not waive any defenses, objections, or motions available to it under state or federal laws. Defendants expressly reserve the right to move for dismissal of Plaintiff's claims pursuant to Rule 12 of the Federal Rules of Civil Procedure.

WHEREFORE, Defendants WG CRANFORD SH, LLC d/b/a ATRIA CRANFORD, ATRIA MANAGEMENT COMPANY and VENTAS AOS OPERATING HOLDINGS, INC., pray that the above-styled action now pending against it in the Superior Court of the State of New Jersey, Union County, Law Division, be removed therefrom to this Honorable Court, the United States District Court for the District of New Jersey.

Dated: Newark, New Jersey
September 29, 2020

HARRIS BEACH PLLC

/s/ Kelly Jones Howell

Kelly Jones Howell (KEJ-7804)

Andre J. Major (AJM- 8888)

Attorneys for Defendants

**WG CRANFORD SH, LLC d/b/a ATRIA
CRANFORD, ATRIA MANAGEMENT
COMPANY and VENTAS AOS
OPERATING HOLDINGS, INC.**

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